

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Claims 1-18 remain pending, wherein claims 1 and 10 have been amended.

Initially, the undersigned would like to thank Examiner Lamarre for his time and courtesy during the personal interview conducted with the undersigned on January 6, 2004. During the personal interview the rejections under 35 U.S.C. §§ 101, 112, and 103 were discussed. The Examiner provided the undersigned with guidance as to how to address these rejections. The amendments above are based upon the guidance provided by the Examiner during the personal interview.

Claims 6 and 15 are rejected under 35 U.S.C. § 112, first paragraph for allegedly lacking written description support. This ground of rejection is respectfully traversed.

The Detailed Description section of the present application has been amended to include the subject matter recited in claims 6 and 15. Because claims 6 and 15 were part of the application as originally filed, this amendment does not raise any issues of written description or new matter. In view of this amendment, it is respectfully requested that the rejection of claims 6 and 15 be withdrawn.

Claims 1-9 are rejected under 35 U.S.C. § 101 as allegedly claiming a mathematical formula or algorithm. Although Applicant respectfully disagrees with this assertion, claim 1 has been amended to recited a decoder. Because this amendment is along the lines of those suggested by the Examiner during the personal interview, it is believed that this amendment overcomes the rejection under 35 U.S.C. § 101. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1-7, 10-12 and 14-16 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wan et al. (WO 99/49610). Claims 1, 2, 5, 6, 10, 11, 14, and 15 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Abe (EPO 0,600,095 A1). These rejections are respectfully traversed.

Wan et al., at page 2, lines 22-24, disclose that the BER is only calculated if there is a PASS result from block decoding. As discussed during the personal interview, Abe discloses that a preset value (which is used when decoded bits have an erroneous value) is selected for the BER. However, Wan et al. and Abe both do not disclose or suggest "setting the bit error rate estimate equal to a value that is based on a previously calculated bit error rate."

During the personal interview, and as discussed in the Office Action, the Examiner considers that using a preset value is the same as using a previously calculated value. Although Applicant respectfully disagrees with this assertion, claims 1 and 10 have been amended to make clear that "the previously calculated bit error rate is calculated using a previously received signal." It is respectfully submitted that Wan et al. and Abe do not disclose or suggest that the preset value "is calculated using a previously received signal." Accordingly, it is respectfully submitted that claims 1 and 10 are patentably distinguishable over Wan et al. and Abe.


Claims 2-9 depend from claim 1, and claims 11-18 depend from claim 10, and are, therefore, patentably distinguishable over Wan et al. and Abe at least by virtue of their respective dependency from claims 1 and 10.

For at least those reasons stated above, it is respectfully requested that the rejection of claims 1-7, 10-12 and 14-16 as allegedly being unpatentable over Wan et al., and the rejection of claims 1, 2, 5, 6, 10, 11, 14, and 15 as allegedly being unpatentable over Abe be withdrawn.

All outstanding objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance. Notice to this effect is earnestly solicited. If there are any questions regarding this response, or the application in general, the Examiner is encouraged to contact the undersigned at 703-838-6578.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: 
Stephen W. Palan
Registration No. 43,420

~~P.O. Box 1404~~
Alexandria, Virginia 22313-1404

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Attachment: Replacement Sheets